

Message Text

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ACTION IO-13

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SUBJECT: OUTER SPACE LEGAL SUBCOMMITTEE: MARCH 17 SESSION

1. SUMMARY: CHILE, VENEZUELA, ITALY, UK AND POLAND SPOKE IN
GENERAL DEBATE MARCH 17 A.M. AT USSR INITIATIVE, WG-I
MINI-GROUP DISCUSSED DRAFTING OPTIONAL PROTOCOL ON NATURAL
RESOURCES OF MOON, WITHOUT REACHING ANY DECISION. TUERK
(AUSTRIA) SELECTED AS CHAIRMAN WG-III ON REMOTE SENSING.
END SUMMARY.

2. GENERAL DEBATE: CHILE (CANALES) SUPPORTED "COMMON
HERITAGE OF MANKING" PRINCIPLE IN DRAFT MOON TREATY (TOM)
AS HAVING CLEAR SIGNIFICANCE IN INTERNATIONAL LAW. OUTER
SPACE MUST REMAIN AVAILABLE FOR INTERNATIONAL COMMUNITY AS
A WHOLE TO AVOID WIDENING GAP BETWEEN INDUSTRIALIZED AND
DEVELOPING COUNTRIES. MOON TREATY'S SCOPE SHOULD EXTEND
TO ALL CELESTIAL BODIES WHICH WILL BE EXPLORED IN THE FUTURE.
RIGHTS OF DISADVANTAGED NONSPACE POWERS NEED TO BE PROTECTED.
ON DBS, CANALES SUPPORTED PRIOR CONSENT PRINCIPLE AS NECES-
SARY TO PROTECT NATIONAL SOVEREIGNTY, ADDING THAT DBS COULD
BE HOSTILE PROPAGANDA WEAPON UNLESS THIS IS OBTAINED. HE
ADVOCATED ONGOING DEVELOPMENT OF REMOTE SENSING SYSTEM,
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NOTING FUTURE ENTRY OF CHILEAN GROUND STATION INTO LANDSAT.
STRESSED NEED TO OBTAIN PRIOR CONSENT OF, AND FREE ACCESS
TO DATA BY, THE SENSED STATE. LACK OF OUTER SPACE
DELIMITATION HAS LED SOME COUNTRIES TO TAKE UNILATERAL
ACTION, AND CHILE WILL SUPPORT ANY INITIATIVE TO DEFINE
BOUNDARIES.

3. VENEZUELA (CONSALVI) STRESSED NEED FOR PROPER LEGAL FRAMEWORK AS MAIN PILLAR OF INTERNATIONAL COOPERATION, DEVELOPING COUNTRIES HAVE AN INTEREST IN LEGAL MECHANISM AFFORDING THEM ACCESS TO BENEFITS OF SPACE. ON TOM, LSC MUST START FROM BASIC PREMISE OF COMMON HERITAGE. DEVELOPING COUNTRIES ARE CONCERNED OVER THE POSSIBILITY OF UNILATERAL AND ARBITRARY USE AND CONTROL OF DBS BY SPACE POWERS OR PRIVATE CORPORATIONS. WHILE EXPRESSING BELIEF IN FREEDOM OF INFORMATION, CONSALVI REJECTED "ABSOLUTIST CONTROL" BY GREAT POWERS, ARGUING THAT DEVELOPING COUNTRIES HAVE RIGHT TO PRESERVE THEIR INTEGRITY. NOTED ECONOMIC AND STRATEGIC ASPECTS OF REMOTE SENSING, AND THE NEED FOR REGULATION IN ORDER TO RESPECT NATIONAL SOVEREIGNTY.

4. ITALY (LAY) RECALLED ITALIAN TOM PROPOSALS LAST LSC AND SAID BASIC PRINCIPLES ENUNCIATED IN 1967 TREATY SHOULD NOT BE REPEATED IN TOM PRINCIPLES. STRESSED NEED TO PROMOTE INCREASED APPLICATION OF REMOTE SENSING TECHNOLOGY FOR DEVELOPING COUNTRIES. RESTRICTIVE DISSEMINATION POLICY WOULD SEVERELY CURTAIL BENEFITS. HE ADVOCATED FLEXIBLE APPROACH TO SOVEREIGNTY OVER NATURAL RESOURCES ISSUE, LEAVING IT TO EACH COUNTRY TO DECIDE ITS POSITION CASE BY CASE, AND SAID CSCE FINAL ACT WOULD CONTINUE TO INSPIRE ITALIAN ATTITUDE ON REMOTE SENSING. ON DBS, LAY EMPHASIZED ITALY'S COMMITMENT TO FREE FLOW PRINCIPLE, ADDING THAT UNDER ITALIAN LEGAL SYSTEM DISSEMINATION OF FALSE OR DISTORTED INFORMATION IS UNLAWFUL. ON DELIMITATION, HE REFERRED TO 1975 ITALIAN PROPOSAL WITH CAVEAT THAT MEDIAN LINE OF 90 KM IS TO BE UNDERSTOOD AS FLEXIBLE.

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5. UK (GREENWEEK) PREPARED TO ACCEPT ANY TOM FORMULA OBTAINING GENERAL ACCEPTANCE IF PROVISIONS ON RESOURCE SHARING ARE FAIR AND REASONABLE AND DO NOT EXCLUDE ANY COUNTRY FROM EQUITABLE SHARE IN BENEFITS. ON DBS, NOTED CONTINUED UK OPPOSITION TO PRIOR CONSENT PRINCIPLE; HOWEVER, WARC RESULTS "HAVE COMPLETELY ALTERED THE BASIC ASSUMPTIONS" ON WHICH DBS HAS BEEN CONSIDERED UP TO NOW. EXCEPT IN FEW CASES WHERE COUNTRIES SHARE COMMON BEAM BY AGREEMENT PURSUANT TO WARC PLAN, DELIBERATE STATE-TO-STATE BROADCASTING BY SATELLITE WITHOUT RECEIVING STATE AGREEMENT WILL BE NOT ONLY IN BREACH OF TREATY OBLIGATIONS BUT IN PRACTICE IMPOSSIBLE. AS RESULT, "RADICAL RETHINKING" NOW REQUIRED WHETHER LSC SHOULD FURTHER DISCUSS PRIOR CONSENT ISSUE. UK BELIEVES IT IS NOT NECESSARY TO FORMULATE A PRINCIPLE FOR A SITUATION WHICH CANNOT IN PRACTICE ARISE. UK CONTINUES TO SUPPORT UNRESTRICTED RIGHT TO CONDUCT REMOTE SENSING AND DISSEMINATE DATA AND INFORMATION AS BEST SAFEGUARD AGAINST POSSIBLE DETRIMENTAL USE. SINCE STSC

STILL CONSIDERING DIVISION OF DATA CATEGORIES AS POSSIBLE CRITERION FOR DISSEMINATION RESTRICTION, IT IS PREMATURE FOR LSC TO TRY TO REACH ANY FIRM CONCLUSION. DISCUSSION CAN CONTINUE ON POSSIBLE LEGAL IMPLICATIONS AND DEFINITIONS OF TERMS. ON DEFINITION/DELIMITATION, UK SEES NO NEED ON SCIENTIFIC OR TECHNICAL GROUODS TO DEFINE INNER LIMITS OF OUTER SPACE. IT IS PREMATURE TO FORMULATE A DEFINITION; SUFFICIENT REPRESENTATIVE EXPRESSION OF VIEWS HAS NOT YET OCCURRED. UK VIEW ON LIMIT STILL UNDECIDED BUT IT WOULD CERTAINLY FAVOR VERY LOW ONE. SAID CLAIMS OF EQUATORIAL STATES TO SOVEREIGNTY OVER GEOSTATIONARY ORBIT ARE INCONSISTENT WITH 1967 TREATY; THERE IS NO VALIDITY TO CLAIMS BASED ON LAW OF GRAVITY, WHICH CANNOT BE SUBDIVIDED INTO PORTIONS BELONGING TO DIFFERENT COUNTRIES. IN PRACTICAL TERMS LIMITED AVAILABILITY OF FACILITIES IN GEOSTATIONARY ORBIT MAKE IT ESSENTIAL THAT NO PART BE APPROPRIATED BY ANY SINGLE STATE. ENTIRE ORBIT SHOULD BE AVAILABLE TO

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ALL STATES FOR PEACEFUL EXPLORATION IN ACCORDANCE WITH OUTER SPACE TREATY. (TEXT POUCHED L/UNA-STOWE.)

6. POLISH DELEGATE ADHERED TO SOVIET LINE ON THE TOM, DBS, REMOTE SENSING, AND DEFINITION/DELIMITATION OF SPACE.

7. FOLLOWING GENERAL DEBATE, IT WAS DECIDED THAT HELMUT TUEK (AUSTRIA) WOULD CHAIR WORKING GROUP III ON REMOTE SENSING; FORMER CHAIRMAN NETTEL WILL NOT ATTEND THIS SESSION.

8. WG-I MINI-GROUP MET 11:15 A.M. TO DISCUSS TOM. USSR (MAIORSKI) OPENED DISCUSSION BY NOTING THAT UNOFFICIAL CONSULTATIONS HAD NOT RESULTED IN CLEAR SIGN BY DELEGATIONS AS TO WHICH ALTERNATIVE SHOULD BE FOLLOWED IN SEEKING A COMPROMISE. MAIORSKI WAS WILLING TO MEET WITH ANY DELEGATION INTERESTED IN TRYING TO FORMULATE OPTIONAL PROTOCOL DRAFT. IF THIS IDEA WAS NOT APPEALING, USSR WISHED TO HEAR SOME OTHER CONCRETE PROPOSALS. IN RESPONSE TO MEXICO'S QUESTION WHETHER USSR PREPARED TO INCLUDE ART. 9 BIS PRINCIPLE IN BODY OF TOM, USSR STATED IT COULD SETTLE ON 1973 TEXT (PAGES 4,5,17 (U.S. PROPOSAL), 18 (ITALIAN PROPOSAL), AND 19). ART. 9 BIS WOULD BE EXCLUDED BECAUSE COMMON HERITAGE OF MANKING IS RELATED TO CELESTIAL BODIES, NOT NATURAL RESOURCES. WITH ENDORSEMENT OF MEXICO, BRAZIL STATED IT COULD NOT GO ALONG WITH AN OPTIONAL PROTOCOL BECAUSE REFERENCE TO COMMON HERITAGE IN CONTEXT OF MOON AND NATURAL RESOURCES SHOULD BE PART OF TOM. USSR POINTED OUT THAT THOSE DELEGATIONS WHICH FAVOR INCLUSION OF COMMON HERITAGE PRINCIPLE IN TOM SHOULD UNDERSTAND ITS IMPRACTICALITY. THE PRINCIPLE SHOULD BE TESTED BY PUTTING IT IN THE OPTIONAL PROTOCOL. USSR STATED THAT ITS POSITION RE

OPTIONAL PROTOCOL WAS A WAY OF SEEKING TO REACH CONSENSUS
SINCE THIS SEEMED UNATTAINABLE IF ART. 9 BIS WAS PART
OF THE TOM. INFORMAL CONSULTATIONS ARE CONTINUING.
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Message Attributes

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